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**BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to
Revoke Probation Against:

JAMES A. McFARLAND, D.P.M.
Certificate #E-2416

Respondent.

No: D1-91-10158

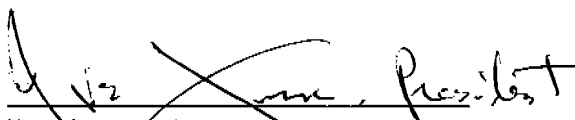
DECISION AND ORDER

The attached Stipulation for Surrender of License is hereby adopted as the Decision and Order of the Board of Podiatric Medicine of the Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 12, 1999.

DATED February 4, 1999.

BOARD OF PODIATRIC MEDICINE



Iva Greene, President

DANIEL E. LUNGREN, Attorney General
of the State of California
GAIL M. HEPPELL, Supervising
Deputy Attorney General
FRED A. SLIMP II
Deputy Attorney General
1300 I Street, Suite 125
P. O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-7861
Attorneys for Petitioner

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to)	Case No. D1-91-10158
Revoke Probation Against:)	
JAMES A. McFARLAND, DPM)	OAH No. N-1998110024
940 Matson Drive)	
Auburn, CA 95603)	STIPULATION FOR
)	SURRENDER OF LICENSE
Podiatric Medical)	
License No. E-2416,)	
)	
Respondent.)	

IT IS HEREBY STIPULATED AND AGREED by and between the
parties to the above-entitled proceedings, that the following
matters are true:

1. Petitioner, James H. Rathlesberger, is the
Executive Officer of the Board of Podiatric Medicine, Department
of Consumer Affairs ("Board") and is represented by Daniel E.
Lungren, Attorney General of the State of California by Fred A.
Sлимп II, Deputy Attorney General.

1 2. James A. McFarland, DPM ("respondent") is
2 represented in this matter by attorney Dan Irving, Esq., whose
3 address is 857 Jefferson Street, Red Bluff, CA 96080. The
4 respondent has counseled with his attorney concerning the effect
5 of this stipulation which respondent has carefully read and fully
6 understands.

7 3. Respondent has received and read the Petition to
8 Revoke Probation which is presently on file and pending in Case
9 Number D1-91-10158 before the Board, a copy of which is attached
10 as Exhibit A and incorporated herein by reference.

11 4. Respondent understands the nature of the charges
12 alleged in the Petition to Revoke Probation and that, if proven
13 at hearing, such charges and allegations would constitute cause
14 for revoking his probation in case number D-5315 and for revoking
15 his podiatric medical license issued by the Board.

16 5. Respondent and his counsel are aware of each of
17 respondent's rights, including the right to a hearing on the
18 charges and allegations, the right to confront and cross-examine
19 witnesses who would testify against respondent, the right to
20 testify and present evidence on his own behalf, as well as to the
21 issuance of subpoenas to compel the attendance of witnesses and
22 the production of documents, the right to contest the charges and
23 allegations, and other rights which are accorded respondent
24 pursuant to the California Administrative Procedure Act (Gov.
25 Code, § 11500 et seq.) and other applicable laws, including the
26 right to seek reconsideration, review by the superior court, and
27

1 appellate review.

2 6. In order to avoid the expense and uncertainty of a
3 hearing, respondent freely and voluntarily waives each and every
4 one of these rights set forth above and admits the truth of the
5 allegations contained in Petition to Revoke Probation number D1-
6 91-10158. Respondent agrees that cause exists to revoke his
7 probation and his license pursuant to the provisions of the
8 Stipulation, Decision and Waiver in case number D-5315, and
9 hereby surrenders his podiatric medical license for the Board's
10 formal acceptance.

11 7. Respondent understands that by signing this
12 stipulation he is enabling the Board to issue its order accepting
13 the surrender of his license without further process. He
14 understands and agrees that Board staff and counsel for
15 petitioner may communicate directly regarding this stipulation,
16 without notice to or participation by respondent or his counsel.
17 In the event that this stipulation is rejected for any reason by
18 the Board, it will be of no force or effect for either party.
19 The Board will not be disqualified from further action in this
20 matter by virtue of its consideration of this stipulation. After
21 respondent has executed this stipulation, he shall not be
22 permitted to withdraw from it.

23 8. Upon acceptance of the stipulation by the Board,
24 respondent understands that he will no longer be permitted to
25 practice as a doctor of podiatric medicine in California, and
26 also agrees to surrender and cause to be delivered to the Board
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1 both his license and wallet certificate, if still in his
2 possession, before the effective date of the decision.

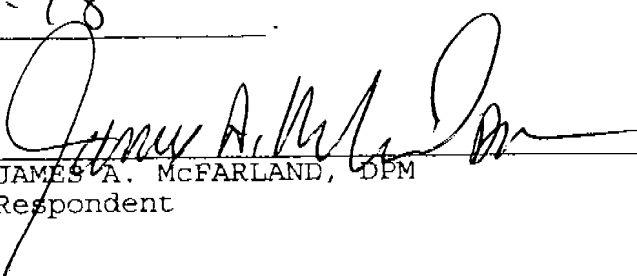
3 9. Respondent fully understands and agrees that if he
4 ever files an application for relicensure or reinstatement in the
5 State of California, the Board shall treat it as a completely new
6 application for licensure, the respondent must comply with all
7 the laws, regulations and procedures for obtaining a license to
8 practice podiatric medicine in the State of California in effect
9 at the time the application is filed, including the passing of
10 the Board's normal licensure examination(s), and all of the
11 charges and allegations contained in Petition to Revoke Probation
12 number D1-91-10158 as well as in the underlying Accusation number
13 D-5315 will be deemed to be true, correct and admitted by
14 respondent when the Board determines whether to grant or deny the
15 application. The Board shall take no action on any such petition,
16 application or reapplication until respondent shall show to the
17 satisfaction of the Board that all costs or fees of any sort or
18 kind owing pursuant to the Stipulation, Waiver and Decision in
19 case number D-5315 effective October 21, 1994, have been paid to
20 the Board.

21 ACCEPTANCE

22 I, James A. McFarland, DPM have carefully read the
23 above stipulation and enter into it freely and voluntarily with
24 the advice of counsel and, with full knowledge of its force and
25 effect, do hereby surrender my podiatric medical license number
26 E-2416 to the Board of Podiatric Medicine for its formal
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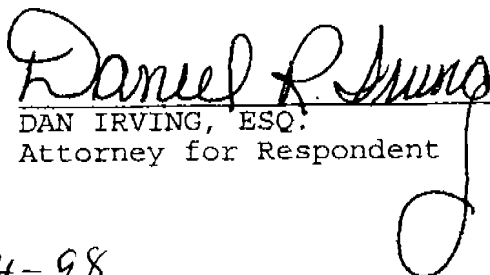
1 acceptance. By signing this stipulation to surrender my license,
2 I recognize that upon its formal acceptance by the Board, I will
3 lose all rights and privileges to practice as a doctor of
4 podiatric medicine in the State of California and I also will
5 cause to be delivered to the Board both my license and wallet
6 certificate, if still in my possession, before the effective date
7 of the decision.

8 DATED: 12-9-98

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10 
11 JAMES A. MCFARLAND, DPM
12 Respondent

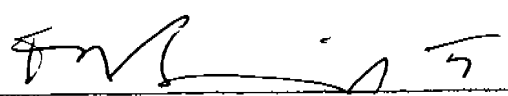
13 I concur in the stipulation.

14
15 DATED: 12-8-98

16 
17 DAN IRVING, ESQ.
18 Attorney for Respondent

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20 DATED: 12-14-98

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22 DANIEL E. LUNGREN, Attorney General
23 of the State of California

24 
25 FRED A. SLIMP II
26 Deputy Attorney General

27 Attorneys for Petitioner

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct. 1 19 88
BY Alma B. [Signature] ANALYST

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
Deputy Attorney General
3 FRED A. SLIMP II
Deputy Attorney General
4 1300 I Street, Suite 125
P. O. Box 944255
5 Sacramento, CA 94244-2550
6 Attorneys for Petitioner

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Petition) Case No. D1-91-10158
12 to Revoke Probation against:)
13 JAMES A. MCFARLAND, DPM)
940 Matson Drive)
14 Auburn, CA 95603) PETITION TO
Podiatric Medical) REVOKE PROBATION
15 License No. E-2416,)
16 Respondent.)
17 _____)

18 COMES NOW petitioner James H. Rathlesberger and alleges
19 as follows:

PARTIES

- 21 1. Petitioner, James H. Rathlesberger, is the
22 Executive Officer of the California Board of Podiatric Medicine
23 (hereinafter "Board") and brings this accusation solely in his
24 official capacity.
25 2. On or about May 18, 1979, Podiatric Medical
26 License No. E-2416 was issued by the Board to James A. McFarland,
27 DPM (hereinafter "respondent"), and at all times relevant to the

1 charges brought herein, the license has been in full force and
2 effect, except that by Order of September 21, 1994, effective
3 October 21, 1994, in case number D-5315, respondent's podiatric
4 medical license was placed on seven (7) years' probation with
5 terms and conditions. Said license expired on August 31, 1994,
6 and is in delinquent status.

7 JURISDICTION

8 3. This petition is brought before the Board under
9 the authority of the following sections of the California
10 Business and Professions Code (hereinafter "Code") and/or other
11 pertinent authority:

12 A. Section 2227 of the Code provides that the Board
13 may revoke, suspend for a period not to exceed one year, or
14 place on probation, the license of any licensee who has been
15 found guilty under the Medical Practice Act, and may recover
16 the costs of probation monitoring if probation is imposed.

17 B. Section 2234(b) of the Code provides that gross
18 negligence constitutes unprofessional conduct.

19 C. Section 2234(c) of the Code provides that repeated
20 negligent acts constitute unprofessional conduct.

21 D. Section 2234(d) of the Code provides that
22 incompetence constitutes unprofessional conduct.

23 E. Section 2497.5 of the Code provides in pertinent
24 part that the Board may request an administrative law judge
25 to include in any proposed decision in a disciplinary
26 proceeding before the Board to include an order directing
27 any licensee found guilty of unprofessional conduct to pay

1 the Board a sum not to exceed the actual and reasonable
2 costs of the investigation and prosecution of the case.

3 4. Respondent is liable to revocation of probation
4 and revocation of his podiatric medical license for failure to
5 comply with the probationary order indicated in paragraph 2,
6 above, as more fully set forth hereinbelow.

7 FIRST CAUSE FOR REVOCATION OF PROBATION
8 (Failure to Comply with Terms of Probation)

9 5. Accusation No. D-5315 issued against respondent on
10 or about July 27, 1994 alleging causes for discipline for
11 violation of Code sections 2234(b), 2234(c), and 2234(d), in that
12 respondent was guilty of numerous incidents of gross negligence,
13 repeated negligent acts and incompetence involving the podiatric
14 care of multiple patients.

15 6. By stipulation for settlement of Accusation No. D-
16 5315 executed by respondent on May 24, 1994, and effective on
17 October 21, 1994, respondent admitted conduct constituting
18 unprofessional conduct within the meaning of Code sections
19 2234(b) (gross negligence) and 2234(d) (incompetence), and agreed
20 to abide by the terms and conditions of the stipulation.

21 7. Among the terms and conditions of the stipulation
22 with which respondent agreed to abide are the following:

23 A. Successful completion of an oral clinical
24 examination. (See Stipulation and Waiver at paragraph 7(B).)

25 B. Submission for the Board's approval of a plan for
26 40 additional hours of Continuing Medical Education for each
27 year of probation. (See id. at paragraph 7(C).)

C. Payment of \$3,000 as recovery of the Board's

1 reasonable costs of investigation and prosecution within the
2 first year of probation. (See id. at paragraph 7(E).)

3 8. Respondent has failed or refused to comply with
4 any of the terms or conditions set forth above in paragraph 7 and
5 its subparts with which he agreed to abide.

6 9. Paragraph 7(M) of the said stipulation and waiver
7 provides that should respondent violate probation in any respect,
8 the Board, after giving respondent any hearing required by law,
9 may revoke the order of probation and vacate the stay of the
10 order of revocation imposed in said stipulation and waiver.

11 10. Respondent's conduct as set forth in paragraph 8,
12 above, constitutes conduct subjecting him to revocation of
13 probation and vacating of the stay of the order of revocation of
14 his podiatric medical license previously imposed.

15 PRAYER

16 **WHEREFORE** petitioner requests that a hearing be held
17 on the matters herein alleged and that, following the hearing,
18 the Board issue a decision:

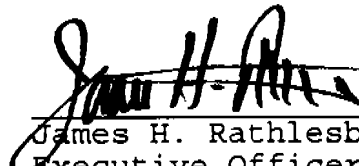
19 1. Revoking podiatric medical license number E-2416
20 previously issued to respondent James A. McFarland, DPM;

21 2. Revoking the probation previously granted to
22 respondent James A. McFarland, DPM pursuant to the Board's
23 decision effective October 21, 1994;

24 3. Ordering respondent to pay the Board the actual
25 and reasonable costs of the investigation and enforcement of this
26 case and the costs of probation monitoring if probation is
27 imposed; and

1 4. Taking such other and further action as the Board
2 may deem necessary or proper.

3 DATED: October 1, 1998 .

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7 James H. Rathlesberger
8 Executive Officer
9 Board of Podiatric Medicine
10 Department of Consumer Affairs
11 State of California

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17 Petitioner
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